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106TH CONGRESS
1ST SESSION

S. 202

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 19, 1999

Mr. MOYNIHAN (for himself, Mr. KENNEDY, and Mr. DASCHLE) introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title XVIII of the Social Security Act and the Employee Retirement Income Security Act of 1974 to improve access to health insurance and medicare benefits for individuals ages 55 to 65, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Early Access Act of 1999".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

Sec. 101. Access to medicare benefits for individuals 62-to-65 years of age.

"PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

"Sec. 1859. Program benefits; eligibility.
"Sec. 1859A. Enrollment process; coverage.
"Sec. 1859B. Premiums.
"Sec. 1859C. Payment of premiums.
"Sec. 1859D. Medicare Early Access Trust Fund.
"Sec. 1859E. Oversight and accountability.
"Sec. 1859F. Administration and miscellaneous.".

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

Sec. 201. Access to medicare benefits for displaced workers 55-to-62 years of age.

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

Sec. 301. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle B—Amendments to the Public Health Service Act

Sec. 311. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

Subtitle C—Amendments to the Internal Revenue Code of 1986

Sec. 321. COBRA continuation benefits for certain retired workers who lose retiree health coverage.

TITLE I—ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE

SEC. 101. ACCESS TO MEDICARE BENEFITS FOR INDIVIDUALS 62-TO-65 YEARS OF AGE.

(a) IN GENERAL.—Title XVIII of the Social Security Act is amended—

(1) by redesignating section 1859 and part D as section 1858 and part E, respectively; and

(2) by inserting after such section the following new part:

"PART D—PURCHASE OF MEDICARE BENEFITS BY CERTAIN INDIVIDUALS AGE 62-TO-65 YEARS OF AGE

"SEC. 1859. PROGRAM BENEFITS; ELIGIBILITY.

"(a) ENTITLEMENT TO MEDICARE BENEFITS FOR ENROLLED INDIVIDUALS.—

"(1) IN GENERAL.—An individual enrolled under this part is entitled to the same benefits under this title as an individual entitled to benefits under part A and enrolled under part B.

"(2) DEFINITIONS.—For purposes of this part:

"(A) FEDERAL OR STATE COBRA CONTINUATION PROVISION.—The term 'Federal or State COBRA continuation provision' has the meaning given the term 'COBRA continuation provision' in section 2791(d)(4) of the Public Health Service Act and includes a comparable State program, as determined by the Secretary.

"(B) FEDERAL HEALTH INSURANCE PROGRAM DEFINED.—The term 'Federal health insurance program' means any of the following:

"(i) MEDICARE.—Part A or part B of this title (other than by reason of this part).

"(ii) MEDICAID.—A State plan under title XIX.

"(iii) FEHBP.—The Federal employees health benefit program under chapter 89 of title 5, United States Code.

"(iv) TRICARE.—The TRICARE program (as defined in section 1072(7) of title 10, United States Code).

"(v) ACTIVE DUTY MILITARY.—Health benefits under title 10, United States Code, to an individual as a member of the uniformed services of the United States.

"(C) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term in section 2791(a)(1) of the Public Health Service Act.

"(b) ELIGIBILITY OF INDIVIDUALS AGE 62-TO-65 YEARS OF AGE.—

"(1) IN GENERAL.—Subject to paragraph (2), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

"(A) AGE.—As of the last day of the month, the individual has attained 62 years of age, but has not attained 65 years of age.

"(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or part B for the month if the individual were 65 years of age.

"(C) NOT ELIGIBLE FOR COVERAGE UNDER GROUP HEALTH PLANS OR FEDERAL HEALTH INSURANCE PROGRAMS.—The individual is not eligible for benefits or coverage under a Federal health insurance program (as defined in subsection (a)(2)(B)) or under a group health plan (other than such eligibility merely through a Federal or State COBRA continuation provision) as of the last day of the month involved.

"(2) LIMITATION ON ELIGIBILITY IF TERMINATED ENROLLMENT.—If an individual described in paragraph (1) enrolls under this part and coverage of the individual is terminated under section 1859A(d) (other than because of age), the individual is not again eligible to enroll under this subsection unless the following requirements are met:

"(A) NEW COVERAGE UNDER GROUP HEALTH PLAN OR FEDERAL HEALTH INSURANCE PROGRAM.—After the date of termination of coverage under such section, the individual obtains coverage under a group health plan or under a Federal health insurance program.

"(B) SUBSEQUENT LOSS OF NEW COVERAGE.—The individual subsequently loses eligibility for the coverage described in subparagraph (A) and exhausts any eligibility the individual may subsequently have for coverage under a Federal or State COBRA continuation provision.

"(3) CHANGE IN HEALTH PLAN ELIGIBILITY DOES NOT AFFECT COVERAGE.—In the case of an individual who is eligible for and enrolls under this part under this subsection, the individual's continued entitlement to benefits under this part shall not be affected by the individual's subsequent eligibility for benefits or coverage described in paragraph (1)(C), or entitlement to such benefits or coverage.

"SEC. 1859A. ENROLLMENT PROCESS; COVERAGE.

"(a) IN GENERAL.—An individual may enroll in the program established under this part only in such manner and form as may be prescribed by regulations, and only

during an enrollment period prescribed by the Secretary consistent with the provisions of this section. Such regulations shall provide a process under which—

"(1) individuals eligible to enroll as of a month are permitted to pre-enroll during a prior month within an enrollment period described in subsection (b); and

"(2) each individual seeking to enroll under section 1859(b) is notified, before enrolling, of the deferred monthly premium amount the individual will be liable for under section 1859C(b) upon attaining 65 years of age as determined under section 1859B(c)(3).

"(b) ENROLLMENT PERIODS.—

"(1) INDIVIDUALS 62-TO-65 YEARS OF AGE.—In the case of individuals eligible to enroll under this part under section 1859(b)—

"(A) INITIAL ENROLLMENT PERIOD.—If the individual is eligible to enroll under such section for July 2000, the enrollment period shall begin on May 1, 2000, and shall end on August 31, 2000. Any such enrollment before July 1, 2000, is conditioned upon compliance with the conditions of eligibility for July 2000.

"(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 2000, the enrollment period shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll and shall end 4 months later. Any such enrollment before the first day of the third month of such enrollment period is conditioned upon compliance with the conditions of eligibility for such third month.

"(2) AUTHORITY TO CORRECT FOR GOVERNMENT ERRORS.—The provisions of section 1837(h) apply with respect to enrollment under this part in the same manner as they apply to enrollment under part B.

"(c) DATE COVERAGE BEGINS.—

"(1) IN GENERAL.—The period during which an individual is entitled to benefits under this part shall begin as follows, but in no case earlier than July 1, 2000:

"(A) In the case of an individual who enrolls (including pre-enrolls) before the month in which the individual satisfies eligibility for enrollment under section 1859, the first day of such month of eligibility.

"(B) In the case of an individual who enrolls during or after the month in which the individual first satisfies eligibility for enrollment under such section, the first day of the following month.

"(2) AUTHORITY TO PROVIDE FOR PARTIAL MONTHS OF COVERAGE.—Under regulations, the Secretary may, in the Secretary's discretion, provide for coverage periods that include portions of a month in order to avoid lapses of coverage.

"(3) LIMITATION ON PAYMENTS.—No payments may be made under this title with respect to the expenses of an individual enrolled under this part unless such expenses were incurred by such individual during a period which, with respect to the individual, is a coverage period under this section.

"(d) TERMINATION OF COVERAGE.—

"(1) IN GENERAL.—An individual's coverage period under this part shall continue until the individual's enrollment has been terminated at the earliest of the following:

"(A) GENERAL PROVISIONS.—

"(i) NOTICE.—The individual files notice (in a form and manner prescribed by the Secretary) that the individual no

longer wishes to participate in the insurance program under this part.

"(ii) NONPAYMENT OF PREMIUMS.—The individual fails to make payment of premiums required for enrollment under this part.

"(iii) MEDICARE ELIGIBILITY.—The individual becomes entitled to benefits under part A or enrolled under part B (other than by reason of this part).

"(B) TERMINATION BASED ON AGE.—The individual attains 65 years of age.

"(2) EFFECTIVE DATE OF TERMINATION.—

"(A) NOTICE.—The termination of a coverage period under paragraph (1)(A)(i) shall take effect at the close of the month following for which the notice is filed.

"(B) NONPAYMENT OF PREMIUM.—The termination of a coverage period under paragraph (1)(A)(ii) shall take effect on a date determined under regulations, which may be determined so as to provide a grace period in which overdue premiums may be paid and coverage continued. The grace period determined under the preceding sentence shall not exceed

60 days; except that it may be extended for an additional 30 days in any case where the Secretary determines that there was good cause for failure to pay the overdue premiums within such 60-day period.

"(C) AGE OR MEDICARE ELIGIBILITY.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B) shall take effect as of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B (other than by reason of this part).

"SEC. 1859B. PREMIUMS.

"(a) AMOUNT OF MONTHLY PREMIUMS.—

"(1) BASE MONTHLY PREMIUMS.—The Secretary shall, during September of each year (beginning with 1999), determine the following premium rates which shall apply with respect to coverage provided under this title for any month in the succeeding year:

"(A) BASE MONTHLY PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—A base monthly premium for individuals 62 years of age or older is equal to 1/12 of the base annual

premium rate computed under subsection (b) for each premium area.

"(B) DEFERRED MONTHLY PREMIUMS FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The Secretary shall, during September of each year (beginning with 1999), determine under subsection (c) the amount of deferred monthly premiums that shall apply with respect to individuals who first obtain coverage under this part under section 1859(b) in the succeeding year.

"(2) ESTABLISHMENT OF PREMIUM AREAS.—For purposes of this part, the term 'premium area' means such an area as the Secretary shall specify to carry out this part. The Secretary from time to time may change the boundaries of such premium areas. The Secretary shall seek to minimize the number of such areas specified under this paragraph.

"(b) BASE ANNUAL PREMIUM FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—

"(1) NATIONAL, PER CAPITA AVERAGE.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section

1859(b)(1)(A) as if all such individuals were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

"(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall reduce, as determined appropriate, the amount determined under paragraph (1) for a premium area (specified under subsection (a)(3)) that has costs below the national average, in order to assure participation in all areas throughout the United States.

"(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals 62 years of age or older residing in a premium area is equal to the average, annual per capita amount estimated under paragraph (1) for the year, adjusted for such area under paragraph (2).

"(c) DEFERRED PREMIUM RATE FOR INDIVIDUALS 62 YEARS OF AGE OR OLDER.—The deferred premium rate for individuals with a group of individuals who obtain coverage under section 1859(b) in a year shall be computed by the Secretary as follows:

"(1) ESTIMATION OF NATIONAL, PER CAPITA ANNUAL AVERAGE EXPENDITURES FOR ENROLL-

MENT GROUP.—The Secretary shall estimate the average, per capita annual amount that will be paid under this part for individuals in such group during the period of enrollment under section 1859(b). In making such estimate for coverage beginning in a year before 2004, the Secretary may base such estimate on the average, per capita amount that would be payable if the program had been in operation over a previous period of at least 4 years.

"(2) DIFFERENCE BETWEEN ESTIMATED EXPENDITURES AND ESTIMATED PREMIUMS.—Based on the characteristics of individuals in such group, the Secretary shall estimate during the period of coverage of the group under this part under section 1859(b) the amount by which—

"(A) the amount estimated under paragraph (1); exceeds

"(B) the average, annual per capita amount of premiums that will be payable for months during the year under section 1859C(a) for individuals in such group (including premiums that would be payable if there were no terminations in enrollment under clause (i) or (ii) of section 1859A(d)(1)(A)).

"(3) ACTUARIAL COMPUTATION OF DEFERRED MONTHLY PREMIUM RATES.—The Secretary shall determine deferred monthly premium rates for individuals in such group in a manner so that—

"(A) the estimated actuarial value of such premiums payable under section 1859C(b), is equal to

"(B) the estimated actuarial present value of the differences described in paragraph (2).

Such rate shall be computed for each individual in the group in a manner so that the rate is based on the number of months between the first month of coverage based on enrollment under section 1859(b) and the month in which the individual attains 65 years of age.

"(4) DETERMINANTS OF ACTUARIAL PRESENT VALUES.—The actuarial present values described in paragraph (3) shall reflect—

"(A) the estimated probabilities of survival at ages 62 through 84 for individuals enrolled during the year; and

"(B) the estimated effective average interest rates that would be earned on investments held in the trust funds under this title during the period in question.

"SEC. 1859C. PAYMENT OF PREMIUMS.

"(a) PAYMENT OF BASE MONTHLY PREMIUM.—

"(1) IN GENERAL.—The Secretary shall provide for payment and collection of the base monthly premium, determined under section 1859B(a)(1) for the age (and age cohort, if applicable) of the individual involved and the premium area in which the individual principally resides, in the same manner as for payment of monthly premiums under section 1840, except that, for purposes of applying this section, any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

"(2) PERIOD OF PAYMENT.—In the case of an individual who participates in the program established by this title, the base monthly premium shall be payable for the period commencing with the first month of the individual's coverage period and ending with the month in which the individual's coverage under this title terminates.

"(b) PAYMENT OF DEFERRED PREMIUM FOR INDIVIDUALS COVERED AFTER ATTAINING AGE 62.—

"(1) RATE OF PAYMENT.—

"(A) IN GENERAL.—In the case of an individual who is covered under this part for a

month pursuant to an enrollment under section 1859(b), subject to subparagraph (B), the individual is liable for payment of a deferred premium in each month during the period described in paragraph (2) in an amount equal to the full deferred monthly premium rate determined for the individual under section 1859B(c).

"(B) SPECIAL RULES FOR THOSE WHO DISENROLL EARLY.—

"(i) IN GENERAL.—If such an individual's enrollment under such section is terminated under clause (i) or (ii) of section 1859A(d)(1)(A), subject to clause (ii), the amount of the deferred premium otherwise established under this paragraph shall be pro-rated to reflect the number of months of coverage under this part under such enrollment compared to the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

"(ii) ROUNDING TO 12-MONTH MINIMUM COVERAGE PERIODS.—In applying clause (i), the number of months of cov-

erage (if not a multiple of 12) shall be rounded to the next highest multiple of 12 months, except that in no case shall this clause result in a number of months of coverage exceeding the maximum number of months of coverage that the individual would have had if the enrollment were not so terminated.

"(2) PERIOD OF PAYMENT.—The period described in this paragraph for an individual is the period beginning with the first month in which the individual has attained 65 years of age and ending with the month before the month in which the individual attains 85 years of age.

"(3) COLLECTION.—In the case of an individual who is liable for a premium under this subsection, the amount of the premium shall be collected in the same manner as the premium for enrollment under such part is collected under section 1840, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed to be a reference to the Medicare Early Access Trust Fund established under section 1859D.

"(c) APPLICATION OF CERTAIN PROVISIONS.—The provisions of section 1840 (other than subsection (h))

shall apply to premiums collected under this section in the same manner as they apply to premiums collected under part B, except that any reference in such section to the Federal Supplementary Medical Insurance Trust Fund is deemed a reference to the Trust Fund established under section 1859D.

"SEC. 1859D. MEDICARE EARLY ACCESS TRUST FUND.

"(a) ESTABLISHMENT OF TRUST FUND.—

"(1) IN GENERAL.—There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Medicare Early Access Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and such amounts as may be deposited in, or appropriated to, such fund as provided in this title.

"(2) PREMIUMS.—Premiums collected under section 1859B shall be transferred to the Trust Fund.

"(b) INCORPORATION OF PROVISIONS.—

"(1) IN GENERAL.—Subject to paragraph (2), subsections (b) through (i) of section 1841 shall apply with respect to the Trust Fund and this title in the same manner as they apply with respect to

the Federal Supplementary Medical Insurance Trust Fund and part B, respectively.

"(2) MISCELLANEOUS REFERENCES.—In applying provisions of section 1841 under paragraph (1)—

"(A) any reference in such section to 'this part' is construed to refer to this part D;

"(B) any reference in section 1841(h) to section 1840(d) and in section 1841(i) to sections 1840(b)(1) and 1842(g) are deemed references to comparable authority exercised under this part; and

"(C) payments may be made under section 1841(g) to the trust funds under sections 1817 and 1841 as reimbursement to such funds for payments they made for benefits provided under this part.

"SEC. 1859E. OVERSIGHT AND ACCOUNTABILITY.

"(a) THROUGH ANNUAL REPORTS OF TRUSTEES.—The Board of Trustees of the Medicare Early Access Trust Fund under section 1859D(b)(1) shall report on an annual basis to Congress concerning the status of the Trust Fund and the need for adjustments in the program under this part to maintain financial solvency of the program under this part.

"(b) PERIODIC GAO REPORTS.—The Comptroller General of the United States shall periodically submit to Congress reports on the adequacy of the financing of coverage provided under this part. The Comptroller General shall include in such report such recommendations for adjustments in such financing and coverage as the Comptroller General deems appropriate in order to maintain financial solvency of the program under this part.

"SEC. 1859F. ADMINISTRATION AND MISCELLANEOUS.

"(a) TREATMENT FOR PURPOSES OF THIS TITLE.—Except as otherwise provided in this part—

"(1) an individual enrolled under this part shall be treated for purposes of this title as though the individual was entitled to benefits under part A and enrolled under part B; and

"(2) benefits described in section 1859 shall be payable under this title to such an individual in the same manner as if such individual was so entitled and enrolled.

"(b) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF MEDICAID PROGRAM.—For purposes of applying title XIX (including the provision of medicare cost-sharing assistance under such title), an individual who is enrolled under this part shall not be treated as being entitled to benefits under this title.

"(c) NOT TREATED AS MEDICARE PROGRAM FOR PURPOSES OF COBRA CONTINUATION PROVISIONS.—In applying a COBRA continuation provision (as defined in section 2791(d)(4) of the Public Health Service Act), any reference to an entitlement to benefits under this title shall not be construed to include entitlement to benefits under this title pursuant to the operation of this part.".

(b) CONFORMING AMENDMENTS TO SOCIAL SECURITY ACT PROVISIONS.—

(1) Section 201(i)(1) of the Social Security Act (42 U.S.C. 401(i)(1)) is amended by striking "or the Federal Supplementary Medical Insurance Trust Fund" and inserting "the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund".

(2) Section 201(g)(1)(A) of such Act (42 U.S.C. 401(g)(1)(A)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund established by title XVIII" and inserting ", the Federal Supplementary Medical Insurance Trust Fund, and the Medicare Early Access Trust Fund established by title XVIII".

(3) Section 1820(i) of such Act (42 U.S.C. 1395i–4(i)) is amended by striking "part D" and inserting "part E".

(4) Part C of title XVIII of such Act is amended—

(A) in section 1851(a)(2)(B) (42 U.S.C. 1395w–21(a)(2)(B)), by striking "1859(b)(3)" and inserting "1858(b)(3);

(B) in section 1851(a)(2)(C) (42 U.S.C. 1395w–21(a)(2)(C)), by striking "1859(b)(2)" and inserting "1858(b)(2)";

(C) in section 1852(a)(1) (42 U.S.C. 1395w–22(a)(1)), by striking "1859(b)(3)" and inserting "1858(b)(3);

(D) in section 1852(a)(3)(B)(ii) (42 U.S.C. 1395w–22(a)(3)(B)(ii)), by striking "1859(b)(2)(B)" and inserting "1858(b)(2)(B)";

(E) in section 1853(a)(1)(A) (42 U.S.C. 1395w–23(a)(1)(A)), by striking "1859(e)(4)" and inserting "1858(e)(4)"; and

(F) in section 1853(a)(3)(D) (42 U.S.C. 1395w–23(a)(3)(D)), by striking "1859(e)(4)" and inserting "1858(e)(4)".

(5) Section 1853(c) of such Act (42 U.S.C. 1395w–23(c)) is amended—

(A) in paragraph (1), by striking "or (7)" and inserting ", (7), or (8)", and

(B) by adding at the end the following:

"(8) ADJUSTMENT FOR EARLY ACCESS.—In applying this subsection with respect to individuals entitled to benefits under part D, the Secretary shall provide for an appropriate adjustment in the Medicare+Choice capitation rate as may be appropriate to reflect differences between the population served under such part and the population under parts A and B.".

(c) OTHER CONFORMING AMENDMENTS.—

(1) Section 138(b)(4) of the Internal Revenue Code of 1986 is amended by striking "1859(b)(3)" and inserting "1858(b)(3)".

(2)(A) Section 602(2)(D)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1162(2)) is amended by inserting "(not including an individual who is so entitled pursuant to enrollment under section 1859A)" after "Social Security Act".

(B) Section 2202(2)(D)(ii) of the Public Health Service Act (42 U.S.C. 300bb–2(2)(D)(ii)) is amended by inserting "(not including an individual who is so entitled pursuant to enrollment under section 1859A)" after "Social Security Act".

(C) Section 4980B(f)(2)(B)(i)(V) of the Internal Revenue Code of 1986 is amended by inserting

"(not including an individual who is so entitled pursuant to enrollment under section 1859A)" after "Social Security Act".

TITLE II—ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE

SEC. 201. ACCESS TO MEDICARE BENEFITS FOR DISPLACED WORKERS 55-TO-62 YEARS OF AGE.

(a) ELIGIBILITY.—Section 1859 of the Social Security Act, as inserted by section 101(a)(2), is amended by adding at the end the following new subsection:

"(c) DISPLACED WORKERS AND SPOUSES.—

"(1) DISPLACED WORKERS.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

"(A) AGE.—As of the last day of the month, the individual has attained 55 years of age, but has not attained 62 years of age.

"(B) MEDICARE ELIGIBILITY (BUT FOR AGE).—The individual would be eligible for benefits under part A or B for the month if the individual were 65 years of age.

"(C) LOSS OF EMPLOYMENT-BASED COVERAGE.—

"(i) ELIGIBLE FOR UNEMPLOYMENT COMPENSATION.—The individual meets the requirements relating to period of covered employment and conditions of separation from employment to be eligible for unemployment compensation (as defined in section 85(b) of the Internal Revenue Code of 1986), based on a separation from employment occurring on or after January 1, 1999. The previous sentence shall not be construed as requiring the individual to be receiving such unemployment compensation.

"(ii) LOSS OF EMPLOYMENT-BASED COVERAGE.—Immediately before the time of such separation of employment, the individual was covered under a group health plan on the basis of such employment, and, because of such loss, is no longer eligible for coverage under such plan (including such eligibility based on the application of a Federal or State COBRA continuation

provision) as of the last day of the month involved.

"(iii) PREVIOUS CREDITABLE COVERAGE FOR AT LEAST 1 YEAR.—As of the date on which the individual loses coverage described in clause (ii), the aggregate of the periods of creditable coverage (as determined under section 2701(c) of the Public Health Service Act) is 12 months or longer.

"(D) EXHAUSTION OF AVAILABLE COBRA CONTINUATION BENEFITS.—

"(i) IN GENERAL.—In the case of an individual described in clause (ii) for a month described in clause (iii)—

"(I) the individual (or spouse) elected coverage described in clause (ii); and

"(II) the individual (or spouse) has continued such coverage for all months described in clause (iii) in which the individual (or spouse) is eligible for such coverage.

"(ii) INDIVIDUALS TO WHOM COBRA CONTINUATION COVERAGE MADE AVAIL-

ABLE.—An individual described in this clause is an individual—

"(I) who was offered coverage under a Federal or State COBRA continuation provision at the time of loss of coverage eligibility described in subparagraph (C)(ii); or

"(II) whose spouse was offered such coverage in a manner that permitted coverage of the individual at such time.

"(iii) MONTHS OF POSSIBLE COBRA CONTINUATION COVERAGE.—A month described in this clause is a month for which an individual described in clause (ii) could have had coverage described in such clause as of the last day of the month if the individual (or the spouse of the individual, as the case may be) had elected such coverage on a timely basis.

"(E) NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLANS.—The individual is not eligible for benefits or coverage under a Federal health insurance program or under a

group health plan (whether on the basis of the individual's employment or employment of the individual's spouse) as of the last day of the month involved.

"(2) SPOUSE OF DISPLACED WORKER.—Subject to paragraph (3), an individual who meets the following requirements with respect to a month is eligible to enroll under this part with respect to such month:

"(A) AGE.—As of the last day of the month, the individual has not attained 62 years of age.

"(B) MARRIED TO DISPLACED WORKER.—The individual is the spouse of an individual at the time the individual enrolls under this part under paragraph (1) and loses coverage described in paragraph (1)(C)(ii) because the individual's spouse lost such coverage.

"(C) MEDICARE ELIGIBILITY (BUT FOR AGE); EXHAUSTION OF ANY COBRA CONTINUATION COVERAGE; AND NOT ELIGIBLE FOR COVERAGE UNDER FEDERAL HEALTH INSURANCE PROGRAM OR GROUP HEALTH PLAN.—The individual meets the requirements of subparagraphs (B), (D), and (E) of paragraph (1).

"(3) CHANGE IN HEALTH PLAN ELIGIBILITY AFFECTS CONTINUED ELIGIBILITY.—For provision that terminates enrollment under this section in the case of an individual who becomes eligible for coverage under a group health plan or under a Federal health insurance program, see section 1859A(d)(1)(C).

"(4) REENROLLMENT PERMITTED.—Nothing in this subsection shall be construed as preventing an individual who, after enrolling under this subsection, terminates such enrollment from subsequently re-enrolling under this subsection if the individual is eligible to enroll under this subsection at that time.".

(b) ENROLLMENT.—Section 1859A of such Act, as so inserted, is amended—

(1) in subsection (a), by striking "and" at the end of paragraph (1), by striking the period at the end of paragraph (2) and inserting "; and", and by adding at the end the following new paragraph:

"(3) individuals whose coverage under this part would terminate because of subsection (d)(1)(B)(ii) are provided notice and an opportunity to continue enrollment in accordance with section 1859E(c)(1).";

(2) in subsection (b), by inserting after Notwithstanding any other provision of law, (1) the following:

"(2) DISPLACED WORKERS AND SPOUSES.—In the case of individuals eligible to enroll under this part under section 1859(c), the following rules apply:

"(A) INITIAL ENROLLMENT PERIOD.—If the individual is first eligible to enroll under such section for July 2000, the enrollment period shall begin on May 1, 2000, and shall end on August 31, 2000. Any such enrollment before July 1, 2000, is conditioned upon compliance with the conditions of eligibility for July 2000.

"(B) SUBSEQUENT PERIODS.—If the individual is eligible to enroll under such section for a month after July 2000, the enrollment period based on such eligibility shall begin on the first day of the second month before the month in which the individual first is eligible to so enroll (or reenroll) and shall end 4 months later.";

(3) in subsection (d)(1), by amending subparagraph (B) to read as follows:

"(B) TERMINATION BASED ON AGE.—

"(i) AT AGE 65.—Subject to clause (ii), the individual attains 65 years of age.

"(ii) AT AGE 62 FOR DISPLACED WORKERS AND SPOUSES.—In the case of an individual enrolled under this part pursuant to section 1859(c), subject to subsection (a)(1), the individual attains 62 years of age.";

(4) in subsection (d)(1), by adding at the end the following new subparagraph:

"(C) OBTAINING ACCESS TO EMPLOYMENT-BASED COVERAGE OR FEDERAL HEALTH INSURANCE PROGRAM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—In the case of an individual who has not attained 62 years of age, the individual is covered (or eligible for coverage) as a participant or beneficiary under a group health plan or under a Federal health insurance program.";

(5) in subsection (d)(2), by amending subparagraph (C) to read as follows:

"(C) AGE OR MEDICARE ELIGIBILITY.—

"(i) IN GENERAL.—The termination of a coverage period under paragraph (1)(A)(iii) or (1)(B)(i) shall take effect as

of the first day of the month in which the individual attains 65 years of age or becomes entitled to benefits under part A or enrolled for benefits under part B.

"(ii) DISPLACED WORKERS.—The termination of a coverage period under paragraph (1)(B)(ii) shall take effect as of the first day of the month in which the individual attains 62 years of age, unless the individual has enrolled under this part pursuant to section 1859(b) and section 1859E(c)(1)."; and

(6) in subsection (d)(2), by adding at the end the following new subparagraph:

"(D) ACCESS TO COVERAGE.—The termination of a coverage period under paragraph (1)(C) shall take effect on the date on which the individual is eligible to begin a period of creditable coverage (as defined in section 2701(c) of the Public Health Service Act) under a group health plan or under a Federal health insurance program.".

(c) PREMIUMS.—Section 1859B of such Act, as so inserted, is amended—

(1) in subsection (a)(1), by adding at the end the following:

"(B) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—A base monthly premium for individuals under 62 years of age, equal to 1/12 of the base annual premium rate computed under subsection (d)(3) for each premium area and age cohort."; and

(2) by adding at the end the following new subsection:

"(d) BASE MONTHLY PREMIUM FOR INDIVIDUALS UNDER 62 YEARS OF AGE.—

"(1) NATIONAL, PER CAPITA AVERAGE FOR AGE GROUPS.—

"(A) ESTIMATE OF AMOUNT.—The Secretary shall estimate the average, annual per capita amount that would be payable under this title with respect to individuals residing in the United States who meet the requirement of section 1859(c)(1)(A) within each of the age cohorts established under subparagraph (B) as if all such individuals within such cohort were eligible for (and enrolled) under this title during the entire year (and assuming that section 1862(b)(2)(A)(i) did not apply).

"(B) AGE COHORTS.—For purposes of subparagraph (A), the Secretary shall establish separate age cohorts in 5-year age increments for individuals who have not attained 60 years of age and a separate cohort for individuals who have attained 60 years of age.

"(2) GEOGRAPHIC ADJUSTMENT.—The Secretary shall adjust the amount determined under paragraph (1)(A) for each premium area (specified under subsection (a)(3)) in the same manner and to the same extent as the Secretary provides for adjustments under subsection (b)(2).

"(3) BASE ANNUAL PREMIUM.—The base annual premium under this subsection for months in a year for individuals in an age cohort under paragraph (1)(B) in a premium area is equal to 165 percent of the average, annual per capita amount estimated under paragraph (1) for the age cohort and year, adjusted for such area under paragraph (2).

"(4) PRO-RATION OF PREMIUMS TO REFLECT COVERAGE DURING A PART OF A MONTH.—If the Secretary provides for coverage of portions of a month under section 1859A(c)(2), the Secretary shall pro-rate the premiums attributable to such cov-

erage under this section to reflect the portion of the month so covered.".

(d) ADMINISTRATIVE PROVISIONS.—Section 1859F of such Act, as so inserted, is amended by adding at the end the following:

"(d) ADDITIONAL ADMINISTRATIVE PROVISIONS.—

"(1) PROCESS FOR CONTINUED ENROLLMENT OF DISPLACED WORKERS WHO ATTAIN 62 YEARS OF AGE.—The Secretary shall provide a process for the continuation of enrollment of individuals whose enrollment under section 1859(c) would be terminated upon attaining 62 years of age. Under such process such individuals shall be provided appropriate and timely notice before the date of such termination and of the requirement to enroll under this part pursuant to section 1859(b) in order to continue entitlement to benefits under this title after attaining 62 years of age.

"(2) ARRANGEMENTS WITH STATES FOR DETERMINATIONS RELATING TO UNEMPLOYMENT COMPENSATION ELIGIBILITY.—The Secretary may provide for appropriate arrangements with States for the determination of whether individuals in the State meet or would meet the requirements of section 1859(c)(1)(C)(i).".

(e) CONFORMING AMENDMENT TO HEADING TO PART.—The heading of part D of title XVIII of the Social Security Act, as so inserted, is amended by striking "62" and inserting "55".

TITLE III—COBRA PROTECTION FOR EARLY RETIREES

Subtitle A—Amendments to the Employee Retirement Income Security Act of 1974

SEC. 301. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 603 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1163) is amended by inserting after paragraph (6) the following new paragraph:

"(7) The termination or substantial reduction in benefits (as defined in section 607(7)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.".

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DE-

FINED.—Section 607 of such Act (29 U.S.C. 1167) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting "except as otherwise provided in this paragraph," after "means,"; and

(ii) by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 603(7), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree."; and

(B) by adding at the end the following new paragraphs:

"(6) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 603(7), a covered employee who, at the time of the event—

"(A) has attained 55 years of age; and

"(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

"(7) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

"(A) means, as determined under regulations of the Secretary and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1999), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such date (taking into account an appropriate adjustment to permit comparison of values over time); and

"(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 602(3).".

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 602(2)(A) of such Act (29 U.S.C. 1162(2)(A)) is amended—

(1) in clause (ii), by inserting "or 603(7)" after "603(6)";

(2) in clause (iv), by striking "or 603(6)" and inserting ", 603(6), or 603(7)";

(3) by redesignating clause (iv) as clause (vi);

(4) by redesignating clause (v) as clause (iv) and by moving such clause to immediately follow clause (iii); and

(5) by inserting after such clause (iv) the following new clause:

"(v) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 603(7), in the case of a qualified beneficiary described in section 607(3)(D) who is not the qualified retiree or spouse of such retiree, the later of—

"(I) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to bene-

fits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

"(II) the date that is 36 months after the date of the qualifying event.".

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 602(1) of such Act (29 U.S.C. 1162(1)) is amended—

(1) by striking "The coverage" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage"; and

(2) by adding at the end the following:

"(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 603(7), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage de-

scribed in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.''.

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 602(3) of such Act (29 U.S.C. 1162(3)) is amended by adding at the end the following new sentence: ''In the case of an individual provided continuation coverage by reason of a qualifying event described in section 603(7), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.''.

(e) NOTICE.—Section 606(a) of such Act (29 U.S.C. 1166) is amended—

(1) in paragraph (4)(A), by striking ''or (6)'' and inserting ''(6), or (7)''; and

(2) by adding at the end the following: ''The notice under paragraph (4) in the case of a qualifying event described in section 603(7) shall be provided at least 90 days before the date of the qualifying event.''.

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

Subtitle B—Amendments to the Public Health Service Act

SEC. 311. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 2203 of the Public Health Service Act (42 U.S.C. 300bb–3) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The termination or substantial reduction in benefits (as defined in section 2208(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.".

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 2208 of such Act (42 U.S.C. 300bb–8) is amended—

(A) in paragraph (3)—

(i) in subparagraph (A), by inserting "except as otherwise provided in this paragraph," after "means,"; and

(ii) by adding at the end the following new subparagraph:

"(C) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in section 2203(6), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree."; and

(B) by adding at the end the following new paragraphs:

"(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in section 2203(6), a covered employee who, at the time of the event—

"(A) has attained 55 years of age; and

"(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

"(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

"(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1999), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such

date (taking into account an appropriate adjustment to permit comparison of values over time); and

"(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of section 2202(3).".

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 2202(2)(A) of such Act (42 U.S.C. 300bb–2(2)(A)) is amended—

(1) by redesignating clause (iii) as clause (iv); and

(2) by inserting after clause (ii) the following new clause:

"(iii) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying event described in section 2203(6), in the case of a qualified beneficiary described in section 2208(3)(C) who is not the qualified retiree or spouse of such retiree, the later of—

"(I) the date that is 36 months after the earlier of the date the quali-

fied retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

"(II) the date that is 36 months after the date of the qualifying event.".

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 2202(1) of such Act (42 U.S.C. 300bb–2(1)) is amended—

(1) by striking "The coverage" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the coverage"; and

(2) by adding at the end the following:

"(B) CERTAIN RETIREES.—In the case of a qualifying event described in section 2203(6), in applying the first sentence of subparagraph (A) and the fourth sentence of paragraph (3), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the

same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.".

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 2202(3) of such Act (42 U.S.C. 300bb–2(3)) is amended by adding at the end the following new sentence: "In the case of an individual provided continuation coverage by reason of a qualifying event described in section 2203(6), any reference in subparagraph (A) of this paragraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed individuals (and their dependents, if applicable) for the coverage option referred to in paragraph (1)(B)'.".

(e) NOTICE.—Section 2206(a) of such Act (42 U.S.C. 300bb–6(a)) is amended—

(1) in paragraph (4)(A), by striking "or (4)" and inserting "(4), or (6)"; and

(2) by adding at the end the following:

"The notice under paragraph (4) in the case of a qualifying event described in section 2203(6) shall be provided at least 90 days before the date of the qualifying event.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except that in no case shall notice be required under such amendment before such date.

Subtitle C—Amendments to the Internal Revenue Code of 1986

SEC. 321. COBRA CONTINUATION BENEFITS FOR CERTAIN RETIRED WORKERS WHO LOSE RETIREE HEALTH COVERAGE.

(a) ESTABLISHMENT OF NEW QUALIFYING EVENT.—

(1) IN GENERAL.—Section 4980B(f)(3) of the Internal Revenue Code of 1986 is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) The termination or substantial reduction in benefits (as defined in subsection (g)(6)) of group health plan coverage as a result of plan changes or termination in the case of a covered employee who is a qualified retiree.".

(2) QUALIFIED RETIREE; QUALIFIED BENEFICIARY; AND SUBSTANTIAL REDUCTION DEFINED.—Section 4980B(g) of such Code is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by inserting "except as otherwise provided in this paragraph," after "means,"; and

(ii) by adding at the end the following new subparagraph:

"(E) SPECIAL RULE FOR QUALIFYING RETIREES AND DEPENDENTS.—In the case of a qualifying event described in subsection (f)(3)(G), the term 'qualified beneficiary' means a qualified retiree and any other individual who, on the day before such qualifying event, is a beneficiary under the plan on the basis of the individual's relationship to such qualified retiree."; and

(B) by adding at the end the following new paragraphs:

"(5) QUALIFIED RETIREE.—The term 'qualified retiree' means, with respect to a qualifying event described in subsection (f)(3)(G), a covered employee who, at the time of the event—

"(A) has attained 55 years of age; and

"(B) was receiving group health coverage under the plan by reason of the retirement of the covered employee.

"(6) SUBSTANTIAL REDUCTION.—The term 'substantial reduction'—

"(A) means, as determined under regulations of the Secretary of Labor and with respect to a qualified beneficiary, a reduction in the average actuarial value of benefits under the plan (through reduction or elimination of benefits, an increase in premiums, deductibles, copayments, and coinsurance, or any combination thereof), since the date of commencement of coverage of the beneficiary by reason of the retirement of the covered employee (or, if later, January 6, 1999), in an amount equal to at least 50 percent of the total average actuarial value of the benefits under the plan as of such

date (taking into account an appropriate adjustment to permit comparison of values over time); and

"(B) includes an increase in premiums required to an amount that exceeds the premium level described in the fourth sentence of subsection (f)(2)(C).".

(b) DURATION OF COVERAGE THROUGH AGE 65.—Section 4980B(f)(2)(B)(i) of such Code is amended—

(1) in subclause (II), by inserting "or (3)(G)" after "(3)(F)";

(2) in subclause (IV), by striking "or (3)(F)" and inserting ", (3)(F), or (3)(G)";

(3) by redesignating subclause (IV) as subclause (VI);

(4) by redesignating subclause (V) as subclause (IV) and by moving such clause to immediately follow subclause (III); and

(5) by inserting after such subclause (IV) the following new subclause:

"(V) SPECIAL RULE FOR CERTAIN DEPENDENTS IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—In the case of a qualifying

event described in paragraph (3)(G), in the case of a qualified beneficiary described in subsection (g)(1)(E) who is not the qualified retiree or spouse of such retiree, the later of—

"(a) the date that is 36 months after the earlier of the date the qualified retiree becomes entitled to benefits under title XVIII of the Social Security Act, or the date of the death of the qualified retiree; or

"(b) the date that is 36 months after the date of the qualifying event.".

(c) TYPE OF COVERAGE IN CASE OF TERMINATION OR SUBSTANTIAL REDUCTION OF RETIREE HEALTH COVERAGE.—Section 4980B(f)(2)(A) of such Code is amended—

(1) by striking "The coverage" and inserting the following:

"(i) IN GENERAL.—Except as provided in clause (ii), the coverage"; and

(2) by adding at the end the following:

"(ii) CERTAIN RETIREES.—In the case of a qualifying event described in paragraph (3)(G), in applying the first sentence of clause (i) and the fourth sentence of subparagraph (C), the coverage offered that is the most prevalent coverage option (as determined under regulations of the Secretary of Labor) continued under the group health plan (or, if none, under the most prevalent other plan offered by the same plan sponsor) shall be treated as the coverage described in such sentence, or (at the option of the plan and qualified beneficiary) such other coverage option as may be offered and elected by the qualified beneficiary involved.".

(d) INCREASED LEVEL OF PREMIUMS PERMITTED.—Section 4980B(f)(2)(C) of such Code is amended by adding at the end the following new sentence: "In the case of an individual provided continuation coverage by reason of a qualifying event described in paragraph (3)(G), any reference in clause (i) of this subparagraph to '102 percent of the applicable premium' is deemed a reference to '125 percent of the applicable premium for employed indi-

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viduals (and their dependents, if applicable) for the coverage option referred to in subparagraph (A)(ii)'.".

(e) NOTICE.—Section 4980B(f)(6) of such Code is amended—

(1) in subparagraph (D)(i), by striking "or (F)" and inserting "(F), or (G)"; and

(2) by adding at the end the following:

"The notice under subparagraph (D)(i) in the case of a qualifying event described in paragraph (3)(G) shall be provided at least 90 days before the date of the qualifying event.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (e)(2)) shall apply to qualifying events occurring on or after January 6, 1999. In the case of a qualifying event occurring on or after such date and before the date of the enactment of this Act, such event shall be deemed (for purposes of such amendments) to have occurred on the date of the enactment of this Act.

(2) ADVANCE NOTICE OF TERMINATIONS AND REDUCTIONS.—The amendment made by subsection (e)(2) shall apply to qualifying events occurring after the date of the enactment of this Act, except

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that in no case shall notice be required under such amendment before such date.

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